

111TH CONGRESS
2D SESSION

H. R. 4600

To prohibit the use of funds to transfer or release an individual detained at Guantanamo Bay Naval Base to the custody of another country.

IN THE HOUSE OF REPRESENTATIVES

FEBRUARY 4, 2010

Ms. ROS-LEHTINEN (for herself, Mr. BOEHNER, Mr. McKEON, Mr. SMITH of Texas, Mr. KING of New York, Mr. HOEKSTRA, Mr. LEWIS of California, Ms. GRANGER, and Mr. PENCE) introduced the following bill; which was referred to the Committee on Foreign Affairs

A BILL

To prohibit the use of funds to transfer or release an individual detained at Guantanamo Bay Naval Base to the custody of another country.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. FINDINGS.**

4 Congress finds the following:

5 (1) On January 22, 2009, President Obama
6 signed Executive Order 13492, requiring the deten-
7 tion facilities at the Guantanamo Bay Naval Base
8 (Guantanamo) to be closed “as soon as practicable”,

1 but not later than one year from the date of the
2 order.

3 (2) A task force of United States Government
4 agencies, including the Departments of Homeland
5 Security, Defense, State, and Justice and the Cen-
6 tral Intelligence Agency and the Federal Bureau of
7 Investigation, has reportedly concluded that large
8 numbers of the detainees held at the United States
9 military facility at Guantanamo pose a severe and
10 permanent threat United States national security
11 and thus should be held indefinitely without trial
12 under the laws of war.

13 (3) Despite this conclusion by United States
14 national security and intelligence agencies, the
15 Obama Administration continues to plan for addi-
16 tional transfers of detainees to other countries.

17 (4) According to a report by the Government
18 Accountability Office, as of March 2009, the prin-
19 cipal “rehabilitation center” in Saudi Arabia used to
20 rehabilitate 250 former Guantanamo detainees in
21 order to prevent such detainees from resuming their
22 war on the United States had a recidivism rate of
23 20 percent.

24 (5) In July 2007, a Department of Defense
25 spokesman stated that, “Our reports indicate that at

1 least 30 former Guantanamo detainees have taken
2 part in anti-coalition militant activities after leaving
3 United States detention. Some have been killed in
4 combat in Afghanistan and Pakistan.”. According to
5 the Department of Defense, the recidivism rate of all
6 former Guantanamo detainees was 14 percent in
7 May 2009.

8 (6) In some instances, countries and organiza-
9 tions have expressed strong reluctance to accept any
10 or additional former Guantanamo detainees, citing
11 security as their primary concern, such as:

12 (A) Australia: “Assessing those requests
13 from a case-by-case basis, they had not met our
14 stringent national security and immigration cri-
15 teria and have been rejected.”, stated Julia
16 Gillard, Acting Australian Prime Minister, on
17 January 3, 2009.

18 (B) Hungary: “Hungary is likely to take
19 one or two former detainees provided they get
20 the green light from parliament after a national
21 security check-up. . . . We are going to study
22 each case, taking the safety of Hungary and of
23 Hungarians as our first priority.”, announced
24 Hungarian Foreign Ministry Spokeswoman
25 Zsuzsanna Matrai on June 19, 2009.

1 (C) Switzerland: On January 12, 2010, in
2 a 15–10 vote, a Swiss Parliamentary Security
3 Committee voted against accepting any more
4 detainees from Guantanamo, citing “height-
5 ened” security concerns due to the Christmas
6 Detroit bombing attempt.

7 (D) European Parliament: “Many of the
8 detainees, for example, who went to Afghani-
9 stan after September 11, [2001,] have attended
10 training camps for terrorists. And those who
11 did so were no tourists wanting to admire the
12 beauty of the country, but remain potential ter-
13 rorists.”, stated Harthmuth Nassauer, a Ger-
14 man member of the European Parliament, on
15 February 4, 2009.

16 **SEC. 2. PROHIBITION ON USE OF FUNDS FOR TRANSFER OR**
17 **RELEASE OF INDIVIDUALS DETAINED AT**
18 **GUANTANAMO BAY NAVAL BASE.**

19 (a) IN GENERAL.—Notwithstanding any provi-
20 sion of law, no funds made available to any relevant execu-
21 tive branch agency may be used to encourage, facilitate,
22 or otherwise effect the transfer or release of any individual
23 currently detained at Guantanamo to the custody of the
24 individual’s country of origin or a third country unless the

1 President makes the certification described in subsection
2 (b).

3 (b) PRESIDENTIAL CERTIFICATION.—The certifi-
4 cation described in this subsection is a written certification
5 that the President submits to the appropriate congres-
6 sional committees that contains each of the following with
7 respect to an individual currently detained at Guantanamo
8 or an individual covered by this section who is proposed
9 to be transferred or released into the custody of another
10 country:

11 (1) A certification that the government of the
12 country—

13 (A) exercises effective control over all of its
14 territory;

15 (B) does not allow any area of its territory
16 to be used as a safe haven or sanctuary by ter-
17 rorists or insurgent groups, including Al Qaeda;
18 and

19 (C) has effectively and verifiably tracked
20 the movements and activities of all individuals
21 who had been detained at Guantanamo who are
22 transferred or released into its custody, includ-
23 ing any individual who may have subsequently
24 left the country, and has provided the United

1 States Government with all relevant informa-
2 tion relating thereto.

3 (2) A certification that there is no confirmed
4 case of any individual who had been detained at
5 Guantanamo who reengaged in any actual or
6 planned act of terrorism or threat to United States
7 citizens or members of the United States Armed
8 Forces subsequent to being transferred or released
9 to such country.

10 (c) ADDITIONAL PROHIBITION.—

11 (1) IN GENERAL.—Notwithstanding any other
12 provision of law, no funds made available to the De-
13 partment of State may be used to provide assistance
14 to the government of a country to which an indi-
15 vidual currently detained at Guantanamo is to be
16 transferred or released for use by the security forces
17 of such country unless the President makes the cer-
18 tification described in subsection (b).

19 (2) WAIVER.—The President may waive the
20 prohibition of paragraph (1) if the President deter-
21 mines that—

22 (A) it is vital to the national security of
23 the United States to do so; and

1 (B) the government of the country has
2 taken effective action to meet the requirements
3 of subsection (b).

4 **SEC. 3. REPORT.**

5 (a) IN GENERAL.—Accompanying each certification
6 submitted pursuant to section 2(b), and every 90 days
7 thereafter, the Secretary of State shall submit to the ap-
8 propriate congressional committees a report that de-
9 scribes—

10 (1) the ability and willingness of the govern-
11 ment of the country to which an individual currently
12 detained at Guantanamo is to be transferred or re-
13 leased to continuously track the movements and ac-
14 tivities of all individuals who have been detained at
15 Guantanamo who have been transferred or released
16 to such country, including any such individuals who
17 have subsequently left the country;

18 (2) any activity by any individual who had been
19 detained at Guantanamo who has been transferred
20 or released to such country that has contributed to
21 any actual or planned act of terrorism or threat to
22 United States citizens or members of the United
23 States Armed Forces subsequent to being trans-
24 ferred or released to such country;

1 (3) the extent to which the government of the
2 country has provided the information described in
3 paragraphs (1) and (2) to United States Govern-
4 ment authorities; and

5 (4) the steps taken by the government of the
6 country to comply with the requirements in this Act.

7 (b) FORM.—The report required by subsection (a)
8 shall be submitted in an unclassified form, but may con-
9 tain a classified annex.

10 **SEC. 4. DEFINITIONS.**

11 In this Act:

12 (1) APPROPRIATE CONGRESSIONAL COMMIT-
13 TEES.—The term “appropriate congressional com-
14 mittees” means—

15 (A) the Committee on Foreign Affairs and
16 the Committee on Appropriations of the House
17 of Representatives; and

18 (B) the Committee on Foreign Relations
19 and the Committee on Appropriations of the
20 Senate.

21 (2) INDIVIDUAL CURRENTLY DETAINED AT
22 GUANTANAMO.—The term “individual currently de-
23 tained at Guantanamo” has the meaning given the
24 term under section 1(c) of Executive Order 13492.

1 (3) RELEVANT EXECUTIVE BRANCH AGENCY.—

2 The term “relevant executive branch agency”
3 means—

4 (A) the Department of State;

5 (B) the United States Agency for Inter-
6 national Development; and

7 (C) any other United States Government
8 department, agency, instrumentality, or rep-
9 resentative carrying out any provision of law
10 that is classified under Budget Function 150
11 (International Affairs).

12 (4) SANCTUARY.—The term “sanctuary” has
13 the meaning given the term in section 140(d)(5) of
14 the Foreign Relations Authorization Act, Fiscal
15 Years 1988 and 1989 (22 U.S.C. 2656f(d)(5)).

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